IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

THURSDAY, THE 13TH SEPTEMBER 2007 / 22ND BHADRA 1929

LA.App..No. 1059 of 2001()

LAR.56/1996 of SUB COURT, SULTHAN BATHERY
.....

APPELLANT:

STATE OF KERALA

BY GOVERNMENT PLEADER SMT.K.R.DEEPA

RESPONDENTS:

EDAKKARAVAYALIL YOYAKI
S/O MARKOSE, MEENANGADI POST
PURAKKADI VILLAGE

BY ADV. SRI.PHILIP MATHEW
SRI.G.G.MANOJ

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 13/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A. NO. 1059 OF 2001

Dated this the 13th day of September, 2007.

J U D G M E N T

Kurian Joseph, J.

This is an appeal filed against the judgment and decree in L.A.R. No. 56/1996 on the file of Sub Court, Sulthan Bathery. Acquisition is for the purpose of Karapuzha Irrigation Project. The land was taken possession on 01.12.1994. However, the award was passed only in 1995.

2. The Reference Court fixed the value following the capitalisation method. The Reference Court followed the fixation made in L.A.R. No. 18/1996. That fixation has become final in view of the judgment in L.A.A. No. 453/1993 filed against the judgment and decree in L.A.R. No. 18/1986. Therefore, there is no need to interfere with the fixation of value.

As far as the grant of 12% additional market value, it is seen that the Reference Court has committed an error in granting the same upto the date of the award. The date of possession being the earlier date, the claimant will be entitled for additional compensation only upto the date of taking possession.

Therefore, the judgment and decree is modified holding that the claimant will be entitled to 12% additional market value only upto the date of taking possession and not upto the date of the award. It is needless to say that claimant will be entitled to all eligible statutory benefits.

The appeal is partly allowed as above.

KURIAN JOSEPH
JUDGE

HARUN-UL-RASHID
JUDGE

smp

KURIAN JOSEPH &
HARUN-UL-RASHID, JJ.

L.A.A. NO. 1059 OF 2001

J U D G M E N T

13.09.2007